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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

BOOKER TYRONE BROWN,

Defendant and Appellant.

A147098

(Alameda County
Super. Ct. No. 70087)

On April 7, 1980, defendant entered John Nelson's apartment without his permission and stole a T.V., slide projector, clock radio, camera lenses, jewelry, and money.

He was charged in an information with one count of first degree residential burglary. Pursuant to a negotiated disposition, defendant pled to second degree burglary, his prior conviction for burglary was stricken, and probation was reinstated and terminated. As agreed, defendant was sentenced to 16 months in state prison.

In November 2015, defendant, represented by counsel, filed a petition to reduce his felony conviction to a misdemeanor under Penal Code section 1170.18. The petition was denied by the trial court because the offense was "originally [a] residential burglary."

Defendant filed a timely appeal challenging the court's denial of his petition.

After defendant appealed, his counsel filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436, setting forth a statement of the case and a summary of the facts, and requesting this court to conduct an independent review of the record. Counsel

notified defendant he can file a supplemental brief with the court. No supplemental brief has been received.

In accordance with *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error and find no arguable error that would result in a disposition favorable to defendant.

The trial court properly denied defendant's petition to redesignate his felony conviction as a misdemeanor because second degree burglary is not one of the enumerated offenses in Penal Code section 1170.18. To have his felony reduced to a misdemeanor, defendant bore the burden of demonstrating the value of the property taken during the commercial burglary was \$950 or less. (*People v. Sherow* (2015) 239 Cal.App.4th 875, 879–880.) We have found nothing in the record regarding the value of the stolen property, thus defendant has failed to carry his burden.

The judgment is affirmed.

Margulies, Acting P.J.

We concur:

Dondero, J.

Banke, J.

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